IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL APPELLATE JURISDICTION
WRIT PETITION NO.450 OF 2007.

Standard Chartered Bank ..Petitioner

versus

Canara Bank & Others ..Respondents.

Mr.Rajeev Kumar with Mr.F. Sayed i/b. M/s. Manilal Kher Ambalal & Co. for the Petitioner

Mr. Umesh Shetty for respondent No.1.

Coram : B.H.Marlapalle & S.R.Sathe, JJ.
Dated : 18th June, 2007

P.C.

1. Before the Recovery officer, Debt Recovery Tribunal, Recovery Proceeding No.136 of 2006 has been instituted by the respondent No.1-bank, and below Exhibit 63 an order came to be passed on 28.8.2006 directing to release the amount of Rs.60,00,000/- to the present petitioner bank which was named as claimant/intervenor, subject to an undertaking to be filed by the said bank in Suit No.1775 of 2002 pending before this Court to the effect that they will bring back the money along with normal rate of interest on term deposit, if any adverse order is passed by this Court in the Civil Suit. The intervenor bank was directed to hand over

the vacant and peaceful possession of the property after four weeks.

2. Appeal No.20 of 2007 has been filed before the Debt Recovery Appellate Tribunal at Mumbai by the present petitioner bank. The Appellate Tribunal by its order dated 22.1.2007 by way of interim relief directed that out of sale proceeds of the flat in question, the sum of Rs.60,00,000/- shall be paid to the appellant bank, but subject to the condition of giving an undertaking as per the order dated 28.8.2006. On 18.2.2007 the said order was modified and in place of the words "it is agreed that" the words "subject to the conditions herein imposed" were incorporated in the order dated 22.1.2007. And these are the orders impugned in the instant petition filed under Article 226 of Constitution of India.

3. At this stage, it is not disputed that the subject flat has already been handed over by the petitioner bank and it has received the amount of Rs.60,00,000/-. In addition it has also furnished an undertaking as was contemplated in the order dated 28.8.2006. Thus, the impugned orders have

been implemented and the appeal is still pending.

4. The learned counsel for the petitioner bank urged before us that the bank was bonafide lessee/licensee of the suit. It had given the deposit of Rs.60,00,000/- while taking the said flat on lease/license and it has filed the suit before this Court for the recovery of Rs.60,00,000/- if the subject flat was required to be vacated and handed over either to the landlord or to any other agency. In short, the only grievance is regarding the undertaking that the petitioner bank was required to give, and which undertaking is already given. We do not find any reason why this grievance of the petitioner bank cannot be considered by the Debts Recovery Appellate Tribunal while finally deciding the pending appeal i.e. Appeal No.20 of 2007. We are informed that the appeal is likely to come up before the Appellate Tribunal on 17.8.2007 and we request the Appellate Tribunal to dispose off the appeal filed on the next date or as expeditiously as possible.

. Petition disposed off accordingly.

(S.R.Sathe, J) **(B.H.Marlapalle, J.)**